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FISCAL IMPACT STATEMENT

LS 7230

BILL NUMBER: HB 1173

NOTE PREPARED: Jan 2, 2009

BILL AMENDED:

SUBJECT: Small Loans and Check Cashing Transactions.

FIRST AUTHOR: Rep. Riecken

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

It specifies that the limits on the finance charges that may be imposed in connection with a small loan apply to the loan's principal.

It provides that the pamphlet required to be provided by a small loan lender to a borrower must, after December 31, 2009, contain information on other loans and financial products that may be available to the borrower.

It requires the Department of Financial Institutions (DFI) to adopt rules to: (1) establish minimum standards for the content and design of a pamphlet that is produced by a lender and submitted to the DFI for approval; and (2) prepare a sample pamphlet that may be adopted or used by a lender to comply with the required disclosures to borrowers.

It requires a licensed casher of checks to submit an annual report to the DFI that includes certain information concerning the check cashing transactions conducted by the licensee at the licensee's Indiana locations during the previous calendar year.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: The bill could increase costs for the DFI to adopt emergency rules, develop examples, and approve or produce pamphlets provided to borrowers entering into small loans. Also, the DFI would incur additional costs to receive annual reports from licensed cash checkers. These additional

costs are expected to be minimal.

Certain factors may mitigate costs for the DFI. If the DFI decides to produce the pamphlet, lenders using the pamphlet will reimburse the DFI costs in reproducing the pamphlet. Also, the DFI may examine the books, accounts, and records of a licensed check casher and may make investigations to determine compliance. Having annual reports available may reduce costs for collecting information for examinations or investigations.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background: On December 22, 2008, the DFI had seven vacant positions with a combined salary of \$383,110.

Explanation of State Revenues: A violation by a licensed check casher is a Class A misdemeanor. There are no data available to indicate if more licensed check cashers will be convicted of an offense if they are required to provide annual reports to the DFI.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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